

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FLORENTINO COPRO, DEFENDANT-APPELLANT.

G.R. No. L-37599. December 29, 1983

Ponente: RELOVA, J.

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RELOVA, J.:

Florentino Copro was accused of the complex crime of forcible abduction with rape in the then Court of First Instance of Quezon. The information reads as follows:

"That on or about the 3rd day of August 1972, in the Municipality of San Narciso, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the said accused, Florentino Copro, with lewd designs, did then and there wilfully, unlawfully and feloniously by the use of force, threats and intimidation abduct one Evelita Herrera, a girl fifteen (15) years of age, by then and there taking and bringing her away against her will while she was selling fish at Barrio Calwit of said municipality and forcibly brought her to the house of Leonito Genton at Barrio Lakdayan of said municipality and, later, to the house of Tomas Herrera at Barrio Buenavista of the same municipality; that while in said houses, the accused, Florentino Copro, by means of force, threats and intimidation did then and there wilfully, unlawfully and feloniously, on three occasions lie with and have carnal knowledge with the said Evelita Herrera against her will.

"Contrary to law."

(pp. 35-36, Record)

From the judgment convicting and sentencing him to the penalty of reclusion perpetua for the complex crime of forcible abduction with rape; reclusion perpetua for a separate crime of simple rape; and, another reclusion perpetua for another crime of rape, with all the legal accessory penalties; and ordering him to indemnify the offended party, Evelita Herrera, in the amount of P12,000.00, to acknowledge and support the offspring, if any, and to pay the costs, Florentino Copro interposed this appeal.

About four o'clock in the afternoon of August 3, 1972, Evelita Herrera, a young girl of 14 years, was vending fish in Barrio Calwit, San Narciso, Quezon. She was accompanied by a younger brother, Wilfredo Herrera who was about 10 years old. On the way they met appellant Florentino Copro who manifested his desire to buy fish and invited Evelita and her brother to go to his (Copro's) house under the coconut groves.

On the way, near a gate known in the place as "trangahan ni Bining," Copro grabbed Evelita, held her arm and left breast and dragged her towards a sampaloc tree which was some distance away. Evelita resisted but just the same, she was forcibly dragged by Copro. Wilfredo hurriedly went home and reported the matter to his parents.

When the accused succeeded in dragging Evelita to the vicinity of the sampaloc tree, she lost consciousness. Regaining it after some time, she felt pain in her private parts and noticed that her pantie was beside her. Before she could put on her pantie, Copro, with her fan-knife poked at Evelita, ordered her to go with him, otherwise, she would be killed. He forcibly brought Evelita to Sitio Lakdayan, Barrio Calwit. They passed the house of one Ildefonso Estrellado who refused to accommodate them that night in his house. Copro then brought Evelita to the

house of one Julio Genton who also refused them shelter. Evelita was then taken to the house of one Leonito Genton who, with his wife, left the house, leaving behind complainant and accused. Copro threatened and ordered Evelita to take off her clothes, including her pantie and to lie down. He then took off his clothes and placed himself on top of Evelita who bit him in his right upper arm. Copro did not react and, instead, persisted in his evil intent until he succeeded in ravishing the young girl despite her resistance.

About four o'clock the next morning, August 4, 1972, Copro forcibly brought Evelita to the house of one Tomas Herrera in Buenavista, San Narciso, Quezon. Tomas Herrera left the place upon request of Copro to buy cigarettes and wine. In the meantime, Copro compelled Evelita to lie down and had carnal knowledge with her again against her will. When Herrera arrived, appellant drank with him. Thereafter, Herrera was again asked by Copro to buy cigarettes and as soon as Herrera had left, appellant again took off his clothes and the pantie of the complainant who was again ravished against her will.

On all these occasions when Evelita was carnally assaulted by Copro she suffered pain. Evelita pleaded with Copro to release him with the promise that she will not file any complaint against him. Before acceding to her request, appellant made her write, on his dictation, a letter the contents of which are as follows: (p. 72, Record)

"Copro mahal ko,

"Hentayin mo ako sa may kware bukas ng hapon.

"Aasahan kong hindi mo ako bibiguin kaya't ako darating at maghihintay sa iyo. May mahalagang bagay tayong pag-uusapan.

"Ang iyong mahal

"Evelita Herrera"

After the letter was thus written, complainant was released with the threat that if she will file a case against him, he would kill her family by dynamite.

Tomas Herrera accompanied Evelita to the national road where she took a jeepney with the intention of going to town to report the matter to the police. On the way, she met her sister Percelita who was in another jeepney and together they went to the municipal building to report the incident. Their parents were already at the police station looking for her.

Evelita narrated to the police everything that was done to her by Copro, following which, she was examined by Dr. Dominga P. Casañada, Municipal Health Officer of San Narciso, Quezon, who issued a medical certificate (Exhibit "A") with the following findings:

"1. Internal Examination done on August 4, 1972 reveals that there is laceration of the hymen, suggesting there was penetration in the vaginal canal. It easily admits 2 fingers without any pain." (p. 11, Record)

Against the evidence of the People, the appellant denied sexual violations on the complainant in the house of Leonito Genton and in the house of Tomas Herrera. Copro claimed that due to his drunkenness he and Evelita slept in the house of Genton until he was awakened by the complainant about four o'clock the following morning. He also denied having sexual intercourse with the complainant in the house of Tomas Herrera. He alleged that it was complainant who ordered her brother to leave them and, thereafter, tried to prevail upon him to take her to Lucena City as her parents are neglecting her. He could not accede to her request because he had no time, aside from the fact that he had no money. Further, it is the submission of appellant that Evelita was his sweetheart for over a year previous to this incident and that he had had previous carnal knowledge of Evelita three times before.

The testimony of Florentino Copro was corroborated by Ildefonso Estrellado, Darlito Genton and Julio Genton.

We quote hereunder the portion of the decision under review relative to the testimony of appellant.

"The foregoing pretensions of the accused this Court finds rather hard to believe. Examination and analysis of the alleged loved letter, Exhibit '2', betrays the patent fact that it is no love letter at all. The greeting 'Copro mahal ko' uses the family name of the accused; the complimentary close 'ang iyong mahal' conveys a feeling not of the writer but of the addressee, while the signature 'Evelita Herrera' is overly formal for a love note. By and large, the pretended love note lacks a ring of tenderness, closeness or familiarity - one indelible mark of a lover's message.

"The claim of amorous advances made by the complainant to the accused is quite out of this world. Considering the traditional modesty of Filipina women, this Court considers it exceedingly hard to believe that a country lass of about 14 or 15 years isolated from the incidents of pornography and smut films would be so pervaded by immorality and immodesty as to make advances to a married man triple her age, there being nothing extraordinarily irresistible on the accused in this case who has neither the physique of Steve Reeves nor the looks of Alain Delon." (p. 25, Rollo)

The corroborating declarations of defense witnesses utterly failed to counteract the evidence of the prosecution, particularly complainant's testimony and Dr. Dominga Casañada's medical report and testimony. We quote with approval the able dissertation of the trial judge on this point.

"The account of Ildefonso Estrellado, a witness for the defense who asserted that when the accused and the complaining-witness came to their house in the afternoon of the day of the incident the complainant had her arm around the waist of the accused and the accused had one of his arms on the shoulder of the complaining-witness, the latter helping the former in walking because he was drunk, is not entitled to credit as one proceeding from a biased source. The biasness of the witness was betrayed when on questions by the court as to the date when he saw the accused and the complaining-witness he asserted that he consulted his calendar after the two (2) had left and when pressed further for the reason why he consulted the calendar, he asserted that he might be asked about the date in Court as he found it queer that the accused was with another woman.

"The testimony of Darlito Genton, who was listed in the information as a witness for the prosecution but who testified subsequently for the defense, is open to suspicion because he was hesitant in answering question on the witness stand and his general appearance was one of fear and hesitancy. He disclaimed knowledge of the contents of his sworn statement which had been marked as Exhibit 'E', claiming that he does not know the contents thereof because he signed the same at the instruction of the policeman who made it without having read it and without the same having been read to him. Despite the professed lack of knowledge of the contents of said statement, however, he asserted that said contents are false and are at variance with what he testified in Court. How this is possible despite his claim that nobody coached him nor told him about the contents of his sworn statement is beyond the comprehension of this court.

"The testimony of Julio Genton, who claimed that when he saw the complaining witness and the accused on the evening in question the accused was drunk and was being propped up by the complaining-witness, is also open to doubt. This witness admitted that he saw the two from a distance of about two (2) arms-length from the balcony of their house at about 9:00 in the evening and they did not stay long because after he refused to receive them they immediately left. There having been no conversation other than the request for shelter for the night and the refusal, after which the accused and the appellant left, the latter did not therefore stay in the yard of the witness for long, a matter admitted by the witness. Considering that the witness, as admitted by him, was reading by lamplight when he heard his name being called by the accused and immediately thereafter he peeped thru the window and proceeded to the balcony where he saw the accused and his companion in the yard, his eyes, which were adopted to the brightness of the light under which he was then reading, labored in the darkness as admitted by him when he went to the balcony. It being elementary that a sudden switch of the

eyes from brightness to darkness would occasion a blurred vision, the pretension that the witness saw the complainant propping up the accused on the night in question which happened to be moonless, is open to doubt. This doubt is not cured in any way by the evasiveness of the witness when asked about whether the accused was also holding on to the complaining-witness at the time. He professed having seen the complaining-witness holding the accused with two (2) hands but failed to see whether the accused was also holding unto the complaining-witness at the time. This evasiveness if anything shows biasness." (pp. 25-28, Rollo)

We shall now consider the points raised by the appellant in his brief, alleging that the trial court erred -

1. in giving full faith and credit to the testimony of offended party Evelita Herrera as to the circumstances under which she was allegedly dragged and pulled (abducted) forcibly and raped through force, violence and intimidation three (3) times by defendant-appellant Florentino Copro and in convicting him of forcible abduction with rape and two (2) other separate offenses of rape.
2. in not giving full faith and credit to the testimony of defendant-appellant Copro and the witnesses who testified for him as to the circumstances under which he met the offended party on August 3, 1972, and how she voluntarily went with him to the places and houses subject matter of their testimonies without having had any sexual intercourse with her.
3. in holding defendant-appellant Copro for trial and sentencing him under the amended information.
4. in not declaring itself without jurisdiction on account of defect in the complaint filed by Dionisio Herrera for rape in the municipal court of San Narciso, Quezon.
5. in rendering the decision, dated September 4, 1973, appealed from (Appendix A hereof) finding the accused-appellant guilty beyond reasonable doubt of the offenses of forcible abduction with rape and two (2) other simple crimes of rape imposing upon him the penalty of reclusion perpetua for one (1) separate crime of forcible abduction with rape; (2) another reclusion perpetua for one separate crime of rape and (3) another reclusion perpetua for the second separate crime of rape, with accessory penalties, and in not dismissing the information or amended information and/or in not acquitting accused-appellant Copro therefrom.

The first three (3) assigned errors raise, in general, the question of credibility of the prosecution witnesses and the sufficiency of their testimonies to prove appellant's guilt beyond reasonable doubt.

Appellant contends it was impossible for him to have abducted complainant at a place which is near the gate leading to his residence. This We find to be without merit. Appellant's house is about fifty (50) meters from the place where he forcibly brought complainant and one's view was obstructed by coconut trees and bushes. Fact is, there is sufficient evidence of abuse upon complainant and the place of commission is immaterial. Complainant was only 14 years old at the time and with a knife poked at her, with threat to be killed if she would not follow what he said, it is not surprising that she was scared to death and, therefore, had to obey. That some did notice the unusual situation complainant was in at the time and did not do anything to help her is understandable. It is the natural reaction of people who did not want to be involved. Upon her release, however, she immediately reported the matter to the authorities and to her parents. These actuations, which are part of the *res gestae*, command strong probative value considering that it was made by the offended party to the persons who, in cases of this nature, were the most logical ones to seek redress from.

The claim of appellant that he was drunk at the time was denied by complainant. And, assuming that he was drunk, it is of common knowledge that a person in that condition is more aggressive and capable of having carnal knowledge with the opposite sex.

The fact that complainant did not sustain any injury is no argument that she was not abused. The truth is, she was

not given fist blows; but, she was intimidated and threatened with a knife and that was sufficient for a 14-year old girl not to resist at all. Rape may be committed even if no force was used; intimidation is sufficient, and this includes the moral kind such as the fear caused by threatening a girl with a knife or pistol (*People vs. Garcines*, 57 SCRA 653). Furthermore, the absence of spermatozoa does not disprove the consummation of rape, the important consideration being, not the emission of semen, but penetration (*People vs. Jose*, 37 SCRA 450; *People vs. Carandang*, 52 SCRA 259).

With respect to the fourth assigned error that the trial court did not acquire jurisdiction over the case because the complaint filed with the municipal court did not state that Dionisio Herrera is the father of Evelita Herrera is not tenable. It is well-settled that when the offended party is a minor, the father may file a complaint under Article 344 of the Revised Penal Code. The father has the custody of the person of the minor and owes to her all the legal obligations of maintenance, care and protection growing out of that relationship. The omission of relationship in the complaint is, if at all, a formal, not a jurisdictional defect.

The last assigned error need not be discussed. Conviction is the necessary consequence considering that the presumption of innocence in favor of the accused-appellant has been successfully overthrown by the prosecution.

WHEREFORE, the appealed decision is AFFIRMED. With costs.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, and Escolin, JJ., concur.
Gutierrez, Jr., J., no part.

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